

1 BRIAN D. SHAPIRO
2 SUB-CHAPTER V TRUSTEE
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10 **UNITED STATES BANKRUPTCY COURT**
11 **FOR THE DISTRICT OF NEVADA**

12 In re:
13 TRACY LEE HURST-CASTL
14 Debtor.

15 Case No. 23-10410-MKN
16 Chapter 11

17 **SUB-CHAPTER V TRUSTEE'S
18 STATEMENT AS TO MOTION TO
19 DISMISS**

20 Brian D. Shapiro, the Sub-Chapter V Trustee provides his statement as to the Motion
21 to Dismiss ("Statement").¹ This Statement is based upon the attached points and authorities,
22 the pleadings filed in this case and any oral argument that this Court may permit.

23 DATED: June 27, 2023

24 By: _____ /s/ *Brian D. Shapiro, Trustee*
25 BRIAN D. SHAPIRO
26 Sub-Chapter V Trustee
27 510 S. 8th Street
28 Las Vegas, NV 89101
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1 The Trustee incorporates by reference his statement filed on June 9, 2023 as ECF No. 109 pertaining to Plan Confirmation.

MEMORANDUM OF POINTS AND AUTHORITIES

The Trustee points this Court and the parties to a recent published decision *entitled In re Rita Ramos Curiel, Hamilton v. Curiel (In re Curiel)*, BAP CC-22-1246-SGF (B.A.P. 9th Cir. June 23, 2023). Such case discusses feasibility in the context of a Sub-Chapter V Case.

Here, the Trustee has concerns regarding the feasibility of this case. The basis for these concerns lies in the fact that the Debtor, unfortunately, lacks any viable source of income. Currently, her only means of income comes from family loans provided primarily by her ex-husband. While the Debtor asserts her intention to secure a Debtor in Possession Loan, it is important to note that no such application has been brought to the attention of the Trustee, nor has any motion for DIP financing been filed.

Should this Court lean towards dismissing the case, the Trustee requests the Court reserve jurisdiction to ensure that his professional services are duly compensated. Preserving the Trustee's ability to file a fee application and ensuring timely payment of his fees by the Debtor would serve the interests of justice and maintain the integrity of the proceedings.

DATED: June 27, 2023

By: /s/ Brian D. Shapiro, Trustee
BRIAN D. SHAPIRO
Sub-Chapter V Trustee
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2 **CERTIFICATE OF SERVICE**
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5 On June 27, 2023, this pleading was served electronically through the Bankruptcy Court's
6 CM/ECF Noticing System to all registered users in this case.
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8 DATED: June 27, 2023
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11 By: /s/ Brian D. Shapiro, Trustee
12 BRIAN D. SHAPIRO
13 Sub-Chapter V Trustee
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